

RESOLUTION NO. 03-09

RESOLUTION OF THE BOARD OF EDUCATION OF THE FONTANA UNIFIED SCHOOL DISTRICT AUTHORIZING THE ISSUANCE OF 2003 TAX AND REVENUE ANTICIPATION NOTES FOR SAID DISTRICT AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO ISSUE SAID NOTES

WHEREAS, pursuant to Sections 53850 et seq. of the Government Code of the State of California (the "Act") contained in Article 7.6 thereof, entitled "Temporary Borrowing", on or after the first day of any fiscal year (being July 1), the Board of Education of Fontana Unified School District (the "District") may borrow money by issuing notes for any purpose for which the District is authorized to use and expend moneys, including but not limited to current expenses, capital expenditures, investment and reinvestment and the discharge of any obligation or indebtedness of the District; and

WHEREAS, Section 53853 of the Act provides that such notes must be issued in the name of the District by the Board of Supervisors (the "County Board") of the County of San Bernardino (the "County"), the County Superintendent of which has jurisdiction over the District, as soon as possible following the receipt of a resolution of the governing board of the District requesting the borrowing; and

WHEREAS, the County Superintendent of the County has jurisdiction over the District, and this Board of Education (the "District Board"), being the governing board of the District, hereby requests the borrowing of not to exceed Sixteen Million Dollars (\$16,000,000) at an interest rate not to exceed eight percent (8%), through the issue by the County Board of 2003 Tax and Revenue Anticipation Notes (the "Notes") in the name of the District; and

WHEREAS, such Notes are payable no later than fifteen months after their date of delivery which is during the fiscal year succeeding the fiscal year 2003-2004 in which such Notes were issued, but as required by Section 53854 of the Act, such date is not later than fifteen months after the date of issue, and such Notes shall be payable only from revenue received or accrued during the fiscal year 2003-2004 in which issued; and

WHEREAS, pursuant to Section 53856 of the Act, the District may pledge any taxes, income, revenue, cash receipts or other moneys, including moneys deposited in inactive or term deposits (but excepting certain moneys encumbered for a special purpose); and this Resolution specifies that certain unrestricted revenues which will be received by the District for the General Fund of the District during or allocable to fiscal year 2003-2004 are pledged for the payment of the Notes; and

WHEREAS, the Notes shall be a general obligation of the District, and to the extent not paid from the taxes, income, revenue, cash receipts and other moneys of the District pledged for the payment thereof shall be paid with interest therein from any other moneys of the District lawfully available therefor, as required by Section 53857 of the Act; and

WHEREAS, the Notes shall be in denominations of \$5,000, or integral multiples thereof, as permitted by Section 53854 of the Act; shall be issued on a date to be designated and shall be in the

form and executed in the manner prescribed in this Resolution, all as permitted and required by Section 53853 of the Act; and

WHEREAS, the District Board has found and determined that said \$16,000,000 maximum principal amount of Notes to be issued in the name of the District by the County Board in fiscal year 2003-2004, when added to the interest payable thereon, does not exceed eighty-five percent (85%) of the estimated amount of the uncollected taxes, income, revenue (including but not limited to revenue from state and federal governments), cash receipts and other moneys of the District which will be available for the payment of the Notes and interest thereon, as required by Section 53858 of the Act; and

WHEREAS, the Notes will not be outstanding after a period ending fifteen months after the date on which such Notes are issued and will not be issued in an amount greater than the maximum anticipated cumulative cash flow deficit to be financed by the anticipated tax or other revenue sources for the period for which such taxes or other revenues are anticipated and during which such notes are outstanding, all as provided in Section 1.103-14(c) of the Income Tax Regulations of the United States Treasuries; and

NOW, THEREFORE, the Board of Education of the Fontana Unified School District hereby resolves as follows:

Section 1. Authorization of Issuance of Notes; Terms Thereof; Paying Agent. The District Board hereby requests the County Board to issue in the name of the District, an amount not to exceed \$16,000,000 principal amount of Notes under Sections 53850 *et seq.* of the Act, designated "Fontana Unified School District, County of San Bernardino, State of California, 2003 Tax and Revenue Anticipation Notes" (the "Notes"); to be numbered from 1 consecutively upward in order of issuance; to be in the denominations of \$5,000, or integral multiples thereof, as determined by the financial advisor to the District; to be dated the date of delivery thereof; to mature (without option of prior redemption) either within 364 days from said date of delivery (or 359 days computed (on a 30-day month/360-day year basis), or if such date is not a day on which banks in New York or California are open for business, on the last day such banks are open for business prior to such date, or some later date as set forth in the Official Statement, but in no event later than fifteen months after the date of issuance, (on a 30-day month/360-day year basis), as described in the Official Statement; and unless otherwise provided for in the Note or in the Official Statement, to bear interest, payable on the date shown in the Official Statement, which date shall be less than 12 months from the date of maturity, and/or at maturity and computed on a 30-day month/360-day year basis, at the rate or rates determined at the time of sale thereof, but not in excess of eight percent (8%) per annum or as otherwise provided for in the Official Statement. Both the principal of and interest on the Notes shall be payable, only upon surrender thereof, in lawful money of the United States of America at the office of the Treasurer-Tax Collector of the County of San Bernardino, which is hereby designated to be the paying agent for the Notes (in such capacity, the "Paying Agent"), or such other paying agent as the County may designate. This Board hereby approves the payment of the reasonable fees and expenses of the Paying Agent as they shall become due and payable.

Section 2. Form of Notes. The Notes shall be issued in registered form and shall be substantially in the form and substance set forth in Exhibit A attached hereto and by reference incorporated herein, the blanks in said form to be filled in with appropriate words and figures. The Notes shall be initially registered in the name of "Cedc & Co." as nominee of The Depository Trust

Company, and shall be evidenced by one note in the full principal amount of the Notes. The Depository Trust Company, New York, New York is hereby appointed depository for the Notes. Registered ownership may not thereafter be transferred except as set forth in Section 4 hereof. There shall be attached to each Note, the legal opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, respecting the validity of said Notes and, immediately preceding such legal opinion, a certificate executed with the facsimile signature of the President of the County Board (the "President"), said certificate to be in substantially the following form:

I HEREBY CERTIFY that the following is a true and correct copy of the legal opinion regarding the Notes therein described that was provided by Stradling Yocca Carlson & Rauth, a Professional Corporation and was dated as of the date of delivery of and payment for said Notes.

[Facsimile Signature]

President of the Board of Supervisors

Section 3. Deposit of Note Proceeds: No Arbitrage. The moneys so borrowed shall be deposited in the General Fund of the District. The District consents to the appointment of an independent fiscal agent to maintain an account into which the moneys so borrowed may be deposited. The District hereby covenants that it will make no use of the proceeds of the Notes that would cause the Notes to be "arbitrage bonds" under Section 148 of the Code; and, to that end, so long as any of the Notes are outstanding, the District, and all of its officers having custody or control of such proceeds, shall comply with all requirements of said section, including restrictions on the use and investment of proceeds of the Notes and the rebate of a portion of investment earnings on certain amounts, including proceeds of the Notes, if required, to the Federal government, and of the Income Tax Regulations of the United States Treasury promulgated thereunder or under any predecessor provisions, to the extent that such regulations are, at the time, applicable and in effect, so that the Notes will not be "arbitrage bonds."

Section 4. Payment of Notes.

(A) Source of Payment. The principal amount of the Notes, together with the interest thereon, shall be payable from taxes, income, revenue, cash receipts and other moneys which are received by the District during fiscal year 2003-2004 and which are available therefor. The Notes shall be a general obligation of the District, and to the extent the Notes are not paid from the Pledged Revenues defined below, the Notes shall be paid with interest thereon from any other moneys of the District lawfully available therefor, as provided herein and by law.

(B) Pledged Revenues. Unless otherwise provided for in the Note or in the Official Statement, as security for the payment of the principal of and interest on the Notes, the District hereby pledges an amount equal to thirty percent (30%) of the principal amount of the Notes from the unrestricted revenues received by the District in the month ending March 31, 2004; an amount equal to thirty percent (30%) of the principal amount of the Notes from unrestricted revenues received by the District in the month ending April 30, 2004; an amount equal to forty percent (40%) of the principal amount of the Notes from unrestricted revenues received by the District in the month ending May 31, 2004; and an amount sufficient to pay interest on the Notes through maturity and any deficiency in the amount required to be deposited during any prior month, from unrestricted revenues received by the District in the month ending May 31, 2004 (such pledged amounts being hereinafter called the "Pledged Revenues"). The term "unrestricted revenues" shall mean taxes, income,

revenue, cash receipts, and other money of the District as provided in Section 53856 of the Act, which are intended as receipts for the general fund of the District and which are generally available for the payment of current expenses and other obligations of the District.

The principal of the Notes and the interest thereon shall be a first lien and charge against and shall be payable from the first moneys received by the District from such Pledged Revenues, as provided by law.

In the event that there are insufficient unrestricted revenues received by the District to permit the deposit into the Repayment Fund, as hereinafter defined, of the full amount of Pledged Revenues to be deposited from unrestricted revenues in a month, then the amount of any deficiency shall be satisfied and made up from any other moneys of the District lawfully available for repayment of the Notes and the interest thereon.

(C) Covenant Regarding Additional Short-term Borrowing. The District hereby covenants and warrants that it will not request the County Treasurer-Tax Collector (the "Treasurer") to make temporary transfers of funds in the custody of the Treasurer to meet any obligations of the District during the 2002-2003 fiscal year pursuant to the authority of Article XVI, Section 6 of the Constitution of the State of California or any other legal authority.

(D) Deposit of Pledged Revenues in Repayment Fund. The Pledged Revenues shall be held by the Treasurer in the County investment pool and be accounted for by the County Superintendent of Schools as a special fund designated as the "Fontana Unified School District, County of San Bernardino, State of California, 2003 Tax and Revenue Anticipation Notes Repayment Fund" (herein called the "Repayment Fund") and applied as directed in this Resolution. Any moneys accounted for in the Repayment Fund shall be for the benefit of the holders of the Notes, and until the Notes and all interest thereon are paid or until provision has been made for the payment of the Notes at maturity with interest to maturity, the moneys in the Repayment Fund shall be applied only for the purposes for which the Repayment Fund is created.

(E) Disbursement and Investment of Moneys in Repayment Fund. From the date this Resolution takes effect, all Pledged Revenues shall, when received, be accounted for in the Repayment Fund. After such date as the amount of Pledged Revenues accounted for in the Repayment Fund shall be sufficient to pay in full the principal of and interest on the Notes, when due, any moneys in excess of such amount remaining in or accruing to the Repayment Fund shall be transferred to the general fund of the District upon the request of the District. On the maturity date of the Notes, the moneys in the Repayment Fund shall be used, to the extent necessary, to pay the principal of and interest on the Notes.

Moneys accounted for in the Repayment Fund, to the greatest extent possible, shall be invested at the request of the District in either investment securities by the Treasurer (or independent fiscal agent), or otherwise as permitted by applicable California law, as it is now in effect and as it may be amended, modified or supplemented from time to time, including the investments authorized in Section 10 hereof; provided that no such investments shall have a maturity date later than the maturity date of the Notes.

Section 5. Execution of Notes. The District hereby requests the President, or a designated deputy thereof, to sign the Notes manually or by facsimile signature; the Treasurer to sign the Notes

manually or by facsimile signature; the Clerk of the County Board (the "Clerk") to countersign the Notes manually or by facsimile signature, provided that at least one of the foregoing shall sign manually; the Clerk to affix the seal of the County thereto by facsimile impression thereof; and said officers to cause the blank spaces thereof to be filled in as may be appropriate.

Section 6. Sale of the Notes. The Notes will be sold at a public sale, at the time and place and upon the terms provided in the County Resolution; provided that the aggregate principal amount of the Notes does not exceed Sixteen Million Dollars (\$16,000,000) and the interest rate does not exceed eight percent (8%) per annum.

Section 7. Appointment of Financial Advisor and Bond Counsel; Authorization of Preliminary Official Statement and Official Statement. RBC Dain Rauscher Inc. is hereby designated as the financial advisor to the District and Stradling Yocca Carlson & Rauth, a Professional Corporation, is hereby designated as bond counsel to the District in connection with the issuance of the Notes. The financial advisor of the District is hereby authorized to prepare a Preliminary Official Statement and an Official Statement relating to the Notes, to be used in connection with the offering and sale of the Notes. The Superintendent, the Associate Superintendent, Business Services, or the Superintendent's designee is hereby authorized and requested to execute and deliver the Official Statement.

Section 8. Delivery of Notes. The proper officers of the County Board are hereby requested to deliver the Notes to the purchaser. All actions heretofore taken by the officers and agents of the District Board, including the Superintendent or the Assistant Superintendent, Business Services or their designees, with respect to the Notes are hereby approved, confirmed and ratified, and the officers of the District Board including, the Superintendent or the Assistant Superintendent, Business Services, or their designees, are hereby authorized and directed to do any and all things and take any and all actions which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Notes in accordance with this Resolution and resolutions hereafter adopted by the County Board.

Section 9. Further Actions Authorized. It is hereby covenanted that the District Board and its appropriate officials will cause the County, to take all proceedings necessary to be taken by them, and to take any additional proceedings necessary to be taken by them, for the levy, collection and enforcement of the secured property taxes pledged under this Resolution in accordance with the law and for carrying out the provisions of this Resolution.

Section 10. Proceeds of Notes Conditionally Pledged; Authorization to Invest in LAIF. Notwithstanding anything to the contrary contained herein, the proceeds of the Notes shall be pledged to the payment of the Notes in the event and to the extent sufficient Pledged Revenues of the District and other legally available revenues are not deposited into the Repayment Fund. In addition to the San Bernardino County Treasury Pool, pursuant to Section 53601(1) of the Government Code of the State of California, the following are hereby designated as additional authorized investments for the proceeds of the Notes and the Repayment Fund: (i) so long as the moneys to be invested shall be held by an independent paying agent and not by the Treasurer, a guaranteed investment contract with a financial institution or insurance company which has or its guarantor has at the date of execution thereof one or more outstanding issues of unsecured, uninsured and unguaranteed debt obligations or a claims paying ability rated not lower than the second highest rating category (without regard to subcategories) by Standard & Poor's, a division of the McGraw-Hill Companies and

Moody's Investor's Service, Inc. (in which case, the District Board hereby authorizes the Superintendent or the business officer of the District to execute a certificate of indemnity holding the Treasurer and the County, its officers, employees and servants harmless and indemnifying them from any costs, liabilities, claims or damages, including but not limited to attorneys' fees, caused by or arising from the investment of the funds in such an instrument, or, alternatively, a written agreement to pay for any costs, liabilities, claims or damages, including but not limited to attorneys' fees, to the Treasurer, the County, its officers, employees and servants, caused by or arising from the investment of the funds in such an instrument); or (ii) the Local Agency Investment Fund (LAIF) administered by the State of California.

Section 11. Continuing Disclosure. The District Board hereby covenants and agrees that it will comply with and carry out, and authorizes and directs the District Superintendent, the Associate Superintendent, Business Services or the Superintendent's designee of each such person, to comply and carry out, all of the provisions of that certain Continuing Disclosure Certificate dated the date of issuance and delivery of the Notes, as originally executed and as it may be amended from time to time in accordance with the terms thereof (the "Continuing Disclosure Certificate"). Notwithstanding any other provision of this Resolution, failure of the District to comply with the Continuing Disclosure Certificate shall not be considered an event of default under the Resolution; however, any Noteholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the District to comply with its obligations under this Section. The preparation of a Continuing Disclosure Certificate is hereby approved. The District Superintendent, the Associate Superintendent, Business Services, or the Superintendent's designee are hereby authorized and directed to execute and deliver to the purchaser of the Notes the Continuing Disclosure Certificate, with such changes therein as any such official may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 12. Transmittal of Resolution. The Superintendent or a designee of the District is hereby directed to send a certified copy of this Resolution to the County Board of Supervisors, the Treasurer and the County Superintendent of Schools.

PASSED AND ADOPTED by the Board of Education of the Fontana Unified School District
this 16th day of April, 2003, by the following vote:

AYES: 5

NOES: 0

ABSENT: 0

ABSTAIN: 0

By: Wayne Ruble
President of the Board of Education
of the Fontana Unified School District

ATTEST:

By: John Hull
Clerk of the Board of Education of the
Fontana Unified School District

CLERK'S CERTIFICATE

I, Pick McClure, Clerk of the Board of Education of the Fontana Unified School District, San Bernardino County, California, hereby certify as follows:

The following is a full, true and correct copy of a resolution duly adopted at a regular meeting of the Board of Education of said District duly and regularly and legally held at the regular meeting place thereof on April 16, 2003, of which meeting all of the members of the Board of Education of said District had due notice and at which a quorum was present.

I have carefully compared the same with the original minutes of said meeting on file and of record in the Superintendent's office and the foregoing is a full, true and correct copy of the original regulation adopted at said meeting and entered in said minutes.

Said resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: 4/16/03, 2003

By: Pick McClure
Clerk of the Board of Education of the
Fontana Unified School District